

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AQUILES CONDE-SHENERY

Plaintiff,

v.

DETECTIVE DAVID RODICK, et al.,

Defendants.

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3:18-CV-2338
(JUDGE MARIANI)

ORDER

AND NOW, THIS 2nd DAY OF JANUARY, 2020, upon review of Chief Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 33) for clear error or manifest injustice,¹ **IT IS HEREBY ORDERED THAT:**

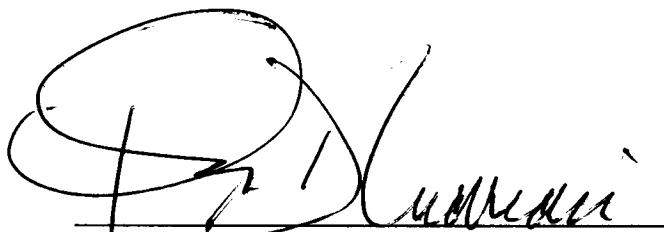
1. The R&R (Doc. 33) is **ADOPTED** for the reasons set forth therein.
2. Defendants' Motion to Dismiss (Doc. 24) is **GRANTED IN PART AND DENIED IN**

PART AS FOLLOWS:

- a. Defendants' Motion is **GRANTED** with respect to Plaintiff's Fourteenth Amendment due process and Fourth Amendment false arrest claims.
- b. Defendants' Motion is **DENIED** with respect to Plaintiff's Fourth Amendment malicious prosecution claims.

¹ The Court notes that in an attempt to ensure that Plaintiff received the pending R&R and had an adequate opportunity to file any Objections should he so choose, the R&R was sent to SCI-Albion on November 5, 2019, and the Carbon County Prison on December 13, 2019. Further review of the Pennsylvania Department of Corrections – Inmate Locator – also indicates that Plaintiff is currently incarcerated at SCI-Albion. No objections have been filed.

3. This action is **REMANDED** to Chief Magistrate Judge Schwab for further pretrial proceedings consistent with this Order.

A handwritten signature in black ink, appearing to read "R. D. Mariani", is written over a horizontal line.

Robert D. Mariani
United States District Judge